

Panaji, 29th August, 1974 (Bhadra 7, 1896)

SERIES I No. 22

OFFICIAL GAZETTE



GOVERNMENT OF GOA, DAMAN AND DIU

GOVERNMENT OF GOA, DAMAN AND DIU

Special Department

Corrigendum

OSD/RRVS/60/73

In the Schedule attached to the Notification of even number dated 16th April, 1974 published in Official Gazette, Series I, No. 8, dated 23rd May, 1974, against the post of Research Officer appearing at serial No. 1, before the existing entry in column 7 add:

"Essential"

M. K. Bhandare, Deputy Secretary (Appointments).

Panaji, 22nd August, 1974.

Labour and Information Department

Notification

1/33/73/LAB/977

The following draft notification which the Government of Goa, Daman and Diu proposes to make under sub-section (3) of Section 2 of the Workmen's Compensation Act, 1923 (Act No. VIII of 1923), is hereby published for general information. Notice is hereby given that the said Notification will be taken into consideration by the Government on the expiry of three months from the date of publication of this notification in the Official Gazette.

All objections and suggestions, if any, may be sent to the Secretary, Industries and Labour, Government of Goa, Daman and Diu, Secretariat, Panaji within three months of the publication of this notification so that they may be taken into consideration at the time of finalization of the draft notification.

"DRAFT NOTIFICATION"

Whereas the Lieutenant Governor of Goa, Daman and Diu is satisfied that the occupation of the workers engaged in the investigation work for preparation of projects mostly in mountaineous regions

comprising of surveys and collection of inflow and discharge data, of the Rivers and Valleys, is hazardous and involves risk to life;

Now, therefore, in exercise of the powers conferred by sub-section (3) of Section 2 of the Workmen's Compensation Act, 1923 (Act No. VIII of 1923), the Lieutenant Governor of Goa, Daman and Diu is pleased to add the following item after item No. XXXII of the Schedule II appended to the said Act, namely:

'XXXIII Employed otherwise than in a clerical capacity in the conduct of surveys in river valleys including collection of data relating to the river'."

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries & Labour.

Panaji, 20th August, 1974.

Notification

1/313/73-LAB/979

The following draft rules which the Government of Goa, Daman and Diu proposes to make in exercise of powers conferred by section 30 of the Minimum Wages Act, 1948 (11 of 1948) and all other powers enabling it in that behalf, are hereby published as required by sub-section (1) of section 30 of the Minimum Wages Act, 1948 (11 of 1948) for general information and notice is hereby given that the draft of the said rules will be taken into consideration by the Government on the expiry of 30 days from the date of publication in the Official Gazette.

All objections and suggestions, if any, may be sent to the Secretary, Government of Goa, Daman and Diu, Labour and Information Department, Secretariat, Panaji within 30 days of the publication of this notification so that they may be taken into consideration at the time of finalisation of rules.

DRAFT RULES

In exercise of the powers conferred by section 30 of the Minimum Wages Act, 1948 (11 of 1948) the Government of Goa, Daman and Diu is pleased to make the following rules namely:—

1. **Short title and commencement.**—(1) These rules may be called the Goa, Daman and Diu Minimum Wages (Advisory Board) Rules, 1974.

(2) They shall come into force at once.

2. Definitions.—In these rules, unless there is anything repugnant in the subject or context:—

(i) "the Act" means the Minimum Wages Act, 1948 (XI of 1948);

(ii) "Board" means the Advisory Board constituted under Section 7 of the Act;

(iii) "Chairman" means the Chairman of the Advisory Board; and

(iv) "member" means a member of Advisory Board;

(v) "Government" means the Government of Goa, Daman and Diu.

3. Constitution of the Advisory Board.—The Board shall consist of the following members, to be nominated by the Government namely:—

(i) a Chairman;

(ii) one member of Parliament;

(iii) two members of Legislative Assembly;

(iv) one Economist;

(v) one member who is or who has been a presiding officer of an Industrial Tribunal constituted under Section 7-A of the Industrial Disputes Act, 1947;

(vi) Director of Municipal Administration;

(vii) Principal Engineer, Public Works Department;

(viii) Commissioner, Labour and Employment;

(ix) ten members representing employers in scheduled employments;

(x) ten members representing employees in scheduled employments.

4. Term of office of members.—(1) Subject to the provisions of these rules, the term of office of members, other than official members, shall be two years commencing from the date of their appointment:

Provided that a member shall, notwithstanding the expiry of the said period of two years, continue to hold office until the appointment of his successor.

(2) A member nominated to fill a casual vacancy shall hold office, only so long as the member in whose place he is nominated would have been entitled to hold office if the vacancy had not occurred.

(3) The official members shall hold office until replaced by others.

5. Eligibility for re-nomination.—An outgoing member shall be eligible for re-nomination.

6. Resignation.—(1) A member other than the Chairman may resign his office by a letter in writing addressed to the Chairman.

(2) The Chairman may resign his office by a letter addressed to the Government.

(3) A member shall be deemed to have vacated his office—

(i) if he is declared to be of unsound mind by a competent court; or

(ii) if he is an undischarged insolvent; or

(iii) if before or after the commencement of the Act, he had been convicted of an offence which, in the opinion of the Government, involves moral turpitude.

(4) The Government may cancel the nomination of a member if, in its opinion, he has ceased to represent the interest on whose behalf he was nominated.

7. Cessation of restoration of membership.—(1) If a member fails to attend three consecutive meetings of the Board, he shall cease to be a member thereof.

(2) A person, who ceases to be a member under sub-rule (7) shall be informed of such cessation by a letter sent to him by registered post within fifteen days from the date of cessation. The letter shall indicate that if he desires restoration to membership, he may apply in writing in this behalf to the Chairman within thirty days from the receipt of such letter. Every such application shall contain the reason for the failure to attend three consecutive meetings. The application for restoration to membership, if received, shall be placed before the Board and if a majority of members present at the meeting are satisfied that the reasons for failure to attend three consecutive meetings are adequate, the member shall be restored to membership immediately after a resolution to that effect is adopted.

8. Meeting.—The Chairman may, whenever he thinks fit and shall within fifteen days of the receipt of a requisition in writing from not less than one-half of the members, call a meeting of the Board.

9. Notice of meetings.—(1) The Chairman shall decide the date, time and place of every meeting. Ordinarily, notice of not less than 21 days from the date of posting thereof shall be given to every member for each meeting of the Board. A list of business proposed to be transacted at the meeting shall be attached with the notice.

(2) If it is necessary to convene an emergent meeting, at least 10 days' notice shall be given to every member.

10. Chairman of the meeting.—The Chairman or, in his absence the Vice-Chairman shall preside at the meetings. In the event of the absence of both the Chairman and Vice-Chairman, the members present may elect one amongst themselves to preside at the meeting.

11. Quorum.—No business shall be transacted at any meeting unless at least twelve members are present:

Provided that if at any meeting less than twelve members are present, the Chairman may adjourn the meeting to a date not later than seven days from the date of the original meeting and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending it.

12. Disposal of business.—Any business which requires consideration by the Board shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon only if it is supported by not less than a two-thirds majority of the members of the Board. Where there is no such majority or where the Chairman so decides, the question shall be considered at a duly convened meeting of the Board.

13. Method of voting.—Voting shall ordinarily be by show of hands. If any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may desire.

14. Decision by majority.—Every question at a meeting of the Board shall be decided by a majority of the votes of the members present and voting:

Provided that in the case of equality of votes, the Chairman or the person presiding shall have a casting vote.

15. Proceedings of the meeting.—(1) The proceedings of each meeting showing inter alia the names of the members present thereat shall be forwarded to each member of the Board, as soon after the meeting as possible and, in any case, not less than seven days before the next meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

By order and in the name of the Lieutenant Governor of Goa, Daman and Diu.

P. Noronha, Under Secretary, Industries and Labour.

Panaji, 20th August, 1974.

Finance Department (Revenue)

Notification

Fin(Rev)/2-36/AR/16/74

The following draft amendment which is proposed to be made to the Goa, Daman and Diu Sales Tax Rules, 1964, is hereby published for general information. Notice is hereby given that the said draft amendment will be taken into consideration by the Government on the expiry of thirty days from the date of publication of this notification in the Official Gazette.

2. All objections and suggestions to the draft amendment may be forwarded to the Under Secretary to the Government of Goa, Daman and Diu, Finance Department, Secretariat, Panaji, before the expiry of thirty days from the date of publication of this notification in the Official Gazette, so that they may be taken into consideration at the time of finalisation of the proposed amendment.

DRAFT AMENDMENT

In exercise of the powers conferred by section 36 of the Goa, Daman and Diu Sales Tax Act, 1964

(4 of 1964) and all other powers enabling it in that behalf, the Government of Goa, Daman and Diu hereby makes the following Rules so as to further amend the Goa, Daman and Diu Sales Tax Rules, 1964, namely:—

1. Short title and commencement.—(1) These rules may be called the Goa, Daman and Diu Sales Tax (Twelfth Amendment) Rules, 1974.

(2) They shall come into force at once.

2. Amendment of Rule 32.—In Rule 32 of the Goa, Daman and Diu Sales Tax Rules, 1964 (hereinafter called the "principal Rules") for the words "order of assessment" the words "order of assessment or re-assessment" shall be substituted.

3. Amendment of Rule 34.—In clause (a) of sub-rule (1) of Rule 34 of the Principal Rules, for the words "tax assessed" the words "tax assessed or re-assessed" shall be substituted.

4. Amendment of Rule 34A.—In Rule 34A of the principal Rules, for the words "tax assessed" the words "tax assessed or re-assessed" shall be substituted.

5. Amendment of Rule 38.—For sub-rule (1) of Rule 38 of the principal Rules, the following shall be substituted namely:—

"(1) The provisions of rules 33 and 34 shall apply mutatis mutandis to every application for revision; provided that the provisions of clause (a) of sub-rule (1) of rule 34 shall not apply to an application for revision of any order other than an order of assessment or re-assessment made under section 17 or section 18 and the appellate order made under section 27 of the Act, as the case may be."

6. Amendment of Rule 41.—For sub-rule (1) of Rule 41 of the principal Rules, the following shall be substituted, namely:—

"(1) When any person appointed under section 3 or the Tribunal constituted under section 3A reviews any order under sub-section (4) of section 27, such person or the Tribunal, as the case may be, shall record reasons therefor."

7. Amendment of Second Schedule.—In the Second Schedule appended to the principal Rules the heading of form S. T. XIX shall be substituted by the following, namely:—

"*Appeal against an order of assessment/re-assessment.*—Under section 17/18, and/or penalty under the Goa, Daman and Diu (Sales Tax) Act, 1964.

(See rule 33 of the Goa, Daman and Diu Sales Tax Rules, 1964)".

By order and in the name of the Administrator of Goa, Daman and Diu.

S. S. Sukhatankar, Under Secretary (Finance).

Panaji, 22nd August, 1974.

Law and Judicial Department

Notification

LD/2693/74

The Presidential and Vice-Presidential Elections (Amendment) Act, 1974 (5 of 1974) is hereby published for general information of the Public.

M. S. Borkar, Under Secretary (Law).

Panaji, 30th April, 1974.

The Presidential and Vice-Presidential Elections (Amendment)
Act, 1974

AN
ACT

to amend the Presidential and Vice-Presidential Elections Act, 1952.

Be it enacted by Parliament in the Twenty-fifth Year of the Republic of India as follows:—

1. **Short title.**—This Act may be called the Presidential and Vice-Presidential Elections (Amendment) Act, 1974.

2. **Amendment of section 2.**—In section 2 of the Presidential and Vice-Presidential Elections Act, 1952 (hereinafter referred to as the principal Act),—

(a) in clause (d), for the words "a member of either House of Parliament", the words and figures "a member of the electoral college referred to in article 66" shall be substituted;

(b) after clause (f), the following clause shall be inserted, namely:—

"(ff) "public holiday" means any day which is a public holiday for the purposes of section 25 of the Negotiable Instruments Act, 1881;" 26 of 1881.

(c) in clause (g), for the word "authorised", the word "competent" shall be substituted.

3. **Amendment of section 4.**—In section 4 of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

"(1) The Election Commission shall, by notification in the Official Gazette, appoint for every election—

(a) the last date for making nominations, which shall be the fourteenth day after the date of publication of the notification under this sub-section, or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(b) the date for the scrutiny of nominations, which shall be the day immediately following the last date for making nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(c) the last date for the withdrawal of candidatures, which shall be the second day after the date for the scrutiny of nominations or, if that day is a public holiday, the next succeeding day which is not a public holiday;

(d) the date on which a poll shall, if necessary, be taken, which shall be a date not earlier than the fifteenth day after the last date for the withdrawal of the candidatures."

4. **Substitution of new sections for section 5.**—For section 5 of the principal Act, the following sections shall be substituted, namely:—

"5. **Public notice of election.**—On the issue of a notification under sub-section (1) of section 4, the returning officer for the election shall give public notice of the intended election in such form and in such manner as may be prescribed, inviting nominations of candidates for such election and specifying the place at which the nomination papers are to be delivered.

5A. **Nomination of candidates.**—Any person may be nominated as a candidate for election to the office of President or Vice-President if he is qualified to be elected to that office under the Constitution.

5B. **Presentation of nomination papers and requirements for a valid nomination.**—(1) On or before the date appointed under clause (a) of sub-section (1) of section 4, each candidate shall, either in person or by any of his proposers or seconders, between the hours of eleven o'clock in the forenoon and three o'clock in the afternoon, deliver to the returning officer at the place specified in this behalf in the public notice issued under section 5 a nomination paper completed in the prescribed form and subscribed by the candidate as assenting to the nomination, and

(a) in the case of Presidential election, also by at least ten electors as proposers and at least ten electors as seconders;

(b) in the case of Vice-Presidential election, also by at least five electors as proposers and at least five electors as seconders:

Provided that no nomination paper shall be presented to the returning officer on a day which is a public holiday.

(2) Each nomination paper shall be accompanied by a certified copy of the entry relating to the candidate in the electoral roll for the parliamentary constituency in which the candidate is registered as an elector.

(3) The returning officer shall not accept any nomination paper which is presented on any day before eleven o'clock in the forenoon and after three o'clock in the afternoon.

(4) Any nomination paper which is not received before three o'clock in the afternoon on the last date appointed under clause (a) of sub-section (1) of section 4 or to which the certified copy referred to in sub-section (2) of this section is not attached shall be rejected and a brief note relating to such rejection shall be recorded on the nomination paper itself.

(5) No elector shall subscribe, whether as proposer or as seconder, more than one nomination paper at the same election and, if he does, his signature shall be inoperative on any paper other than the one first delivered.

(6) Nothing in this section shall prevent any candidate from being nominated by more than one nomination paper for the same election:

Provided that not more than four nomination papers shall be presented by or on behalf of any candidate or accepted by the returning officer.

5C. Deposit.—(1) A candidate shall not be deemed to be duly nominated for election unless he deposits or causes to be deposited a sum of two thousand five hundred rupees:

Provided that where a candidate has been nominated by more than one nomination paper for the same election, not more than one deposit shall be required of him under this sub-section.

(2) The sum required to be deposited under sub-section (1) shall not be deemed to have been deposited under that sub-section unless at the time of presentation of the nomination paper under sub-section (1) of section 5B, the candidate has either deposited or caused to be deposited that sum with the returning officer in cash or enclosed with the nomination paper a receipt showing that the said sum has been deposited by him or on his behalf in the Reserve Bank of India or in a Government Treasury.

5D. Notice of nominations and the time and place for their scrutiny.—On the presentation of a nomination paper, the returning officer shall—

(a) sign thereon a certificate stating the date and time of presentation of the nomination paper and enter thereon its serial number;

(b) inform the person or persons presenting the nomination paper of the date, time and place fixed for the scrutiny of nominations; and

(c) cause to be affixed in some conspicuous place in his office a copy of the nomination paper as certified and numbered under clause (a).

5E. Scrutiny of nominations.—(1) On the date fixed for the scrutiny of nominations under sub-section (1) of section 4, the candidates, one proposer or one seconder of each candidate and one other person duly authorised in writing by each candidate, but no other person, shall be entitled to be present at the time of scrutiny of nominations and the returning officer shall give them all reasonable facilities for examining the nomination papers of all candidates which have not been rejected under sub-section (4) of section 5B.

(2) For the removal of doubts, it is hereby declared that it shall not be necessary to scrutinise on the date fixed for the scrutiny of nominations the nomination papers already rejected under sub-section (4) of section 5B.

(3) The returning officer shall then examine the nomination papers and shall decide all objections which may be made to any nomination paper and may, either on such objection or on his own motion, after such summary inquiry, if any, as he thinks

necessary, reject any nomination on any of the following grounds:—

(a) that, on the date fixed for the scrutiny of nominations, the candidate is not eligible for election as President or Vice-President, as the case may be, under the Constitution; or

(b) that any of the proposers or seconders is not qualified to subscribe a nomination paper under sub-section (1) of section 5B; or

(c) that the nomination paper is not subscribed by the required number of proposers or seconders; or

(d) that the signature of the candidate or any of the proposers or seconders is not genuine or has been obtained by fraud; or

(e) that there has been a failure to comply with any of the provisions of section 5B or section 5C.

(4) Nothing contained in clauses (b) to (e) of sub-section (3) shall be deemed to authorise the rejection of the nomination of any candidate on the ground of any irregularity in respect of a nomination paper, if the candidate has been duly nominated by means of another nomination paper in respect of which no irregularity has been committed.

(5) The returning officer shall not reject any nomination paper on the ground of any defect which is not of a substantial character.

(6) The returning officer shall hold the scrutiny on the date appointed in this behalf under clause (b) of sub-section (1) of section 4 and shall not allow any adjournment of the proceedings except when such proceedings are interrupted or obstructed by riot or open violence or by causes beyond his control:

Provided that in case an objection is raised by the returning officer or is made by any other person the candidate concerned may be allowed time to rebut it not later than the next day but one following the date fixed for scrutiny, and the returning officer shall record his decision on the date to which the proceedings have been adjourned.

(7) The returning officer shall endorse on each nomination paper his decision accepting or rejecting the same and if the nomination paper is rejected, shall record in writing a brief statement of his reasons for such rejection.

(8) For the purposes of this section, a certified copy of an entry in the electoral roll for the time being in force shall be conclusive evidence of the fact that the person referred to in that entry is an elector for that constituency, unless it is proved that he is subject to any of the disqualifications mentioned in section 16 of the Representation of the People Act, 1950."

43 of 1950.

5. Amendment of section 6.—In section 6 of the principal Act,—

(a) in sub-section (1), for the words "by his proposer or seconder", the words "by any one of his proposers or seconders" shall be substituted;

(b) for sub-section (3), the following sub-section shall be substituted, namely:—

“(3) The Returning Officer shall, on being satisfied as to the genuineness of a notice of withdrawal and the identity of the person delivering it under sub-section (1), cause the notice to be affixed in some conspicuous place in his office.”.

6. Amendment of section 14.— In section 14 of the principal Act, for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) An election petition calling in question an election may be presented on one or more of the grounds specified in sub-section (1) of section 18 and section 19 to the Supreme Court by any candidate at such election, or—

(i) in the case of Presidential election, by twenty or more electors joined together as petitioners;

(ii) in the case of Vice-Presidential election, by ten or more electors joined together as petitioners.”.

7. Amendment of section 18.— For sub-section (1) of section 18 of the principal Act, the following sub-section shall be substituted, namely:—

“(1) If the Supreme Court is of opinion, —

(a) that the offence of bribery or undue influence at the election has been committed by the returned candidate or by any person with the consent of the returned candidate; or

(b) that the result of the election has been materially affected —

(i) by the improper reception or refusal of a vote, or

(ii) by any non-compliance with the provisions of the Constitution or of this Act or of any rules or orders made under this Act; or

(iii) by reason of the fact that the nomination of any candidate (other than the successful candidate), who has not withdrawn his candidature, has been wrongly accepted; or

(c) that the nomination of any candidate has been wrongly rejected or the nomination of the successful candidate has been wrongly accepted; the Supreme Court shall declare the election of the returned candidate to be void.”.

8. Insertion of new section 20A.— In Part IV of the principal Act, before the existing section 21, the following section shall be inserted, namely:—

“20A. **Return or forfeiture of candidate's deposit.**— (1) The deposit made under section 5C shall either be returned to the person making it or his legal representative or be forfeited to the Central Government in accordance with the provisions of this section.

(2) Except in cases hereafter mentioned in this section, the deposit shall be returned as soon as practicable after the result of the election is declared.

(3) If the candidate is not shown in the list referred to in clause (b) of section 8, or if he dies before the commencement of the poll, the deposit shall be returned as soon as practicable after the publication of the list or after his death, as the case may be.

(4) Subject to the provisions of sub-section (3), the deposit shall be forfeited if at the election where the poll has been taken, the candidate is not elected, and the number of valid votes polled by such candidate does not exceed one-sixth of the number of votes necessary to secure the return of a candidate at such election.”.

9. Amendment of section 21.— In section 21 of the principal Act, —

(1) in sub-section (2), —

(a) in clause (b), for the words “members of both Houses of Parliament”, the words and figures “members of the electoral college referred to in article 66” shall be substituted;

(b) after clause (c), the following clause shall be inserted, namely:—

“(cc) the form and manner in which public notice under section 5 shall be given by the returning officer;”;

(c) for clause (g), the following clause shall be substituted, namely:—

“(g) the place and hours of polling, the manner in which votes are to be given both generally and in the case of illiterate voters or voters not conversant with the language in which ballot papers are printed or voters under physical or other disability and the procedure as to voting to be followed at elections;”;

(2) after sub-section (2), the following sub-section shall be inserted, namely:—

“(3) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form, or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.”.